IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1139 of 1992
With
SPECIAL CRIMINAL APPLICATION No. 1140 of 1992

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

SUBHADA MAHENDRASINH CHUDASAMA - Applicant(s)

Versus

GOVINDSINHJI MERUJI CHUDASAMA & 7 - Respondent(s)

==========

Appearance :
MR YOGESH S LAKHANI for Applicant(s) : 1,
MR PM THAKKAR for Respondent(s) : 1 - 4, 6,
NOTICE UNSERVED for Respondent(s) : 5,
NOTICE SERVED for Respondent(s) : 7,
PUBLIC PROSECUTOR for Respondent(s) : 8,
==========

CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 18/10/2005

ORAL JUDGMENT

1.The petitioner has filed this Special Criminal Application No. 1139/92 under Article 227 of the

Constitution of India praying for quashing and setting aside the order passed by the learned Additional Sessions Judge, Rajkot dated 07.04.1992 below an application exh.5 in Criminal Revision Application No. 19/1992, filed by the accused persons.

2.Similarly, the petitioner has filed Special Criminal Application No. 1140 of 1992 praying for quashing and setting aside the order passed by the learned Additional Sessions Judge, Rajkot dated 07.04.1992, below an application Exh.4 in Criminal Revision Application No.20 of 1992 filed by the State.

3.It is the case of the petitioner that pursuant to the order passed by the learned Magistrate for police investigation under Section 156(3) of the Code of Criminal Procedure, the Investigating Officer has filed 'C' summary report before the court. However, the said report has not been accepted by the learned Magistrate by his order dated 17.02.1992. The said order has been challenged by the respondents no.1 to 7 as well as the State before the learned Sessions Judge by way of Criminal Revision Application no. 19/1992 and 20/1992 respectively. In the said Revision Applications, respondents have also prayed for stay against operation

of the order dated 17.02.1992 passed by the learned Magistrate. The learned Sessions Judge has granted stay in the said Criminal Revision Applications till 23.04.1992. These two orders have been challenged by the petitioner in the present two petitions.

4.Ms. Krina Thakkar, learned advocate appearing for Mr. Yogesh S Lakhani learned advocate for the petitioner has submitted that the order passed by the learned Sessions Judge is of 23.04.1992. It is an interim order passed during the pendency of the Revision Application whereby the order of the learned Magistrate passed om 17.02.1992 rejecting the 'C' summary report was stayed. There is all possibility that the said revision must have been decided by this court. If the Revision Application is still pending before the learned Sessions Judge, the same can be decided in accordance with law.

5.Since the present petition is pending before this court for the last about 13 years, it is not known as to whether the Revision Applications are decided or not by the Sessions Court. In any case, the present petition is filed against an interim order passed by the learned Sessions Judge during the pendency of the revision application. There is no reason to keep these two

matters pending here. The court has not granted any stay against the order of the learned Sessions Judge and hence there is all possibility that the said revision must have been decided by now.

6.In this view of the matter, these two petitions are accordingly disposed off with an observation that if the Criminal Revision Applications are still pending before the learned Sessions Judge, the same can be decided as expeditiously as possible and in accordance with law.

7.Rule discharged in both these petitions without any order as to cost.

(K.A. PUJ, J.)

Divya//